THE HONOURABLE MRS. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26217 of 2007

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking writ of mandamus declaring that (1) the Memo No.602/F8(1)/2006, dated 14.3.2007 issued by the 1st respondent has no application to the petitioner, who opted for payment of tax under composition scheme as per Section 4(7)(b) of the A.P. Value Added Tax Act, (2) the petitioner is entitled for addition of VAT component of 4% on the entire work done and deduction at the time of payment of each bill in terms fo the provisions of agreements read with G.O. 141, dated 27.7.2006 and Section 22(3) of the A.P. Vat Act, (3) to declare the action of the respondents 2 to 6 in adding and/or deducting different amounts lesser than 4% and issuing TCS Certificate to the said amount as illegal and contrary to the provisions of A.P. Value Added Tax and Government orders in force as well as the terms of the agreement and (4) consequently to direct the respondent Nos. 2 to 6 to pay the difference amount between 4% of total value of work done and the actual amount for which TCS certificate are issued to the petitioner forthwith.

The petitioner company is a registered Dealer under the APGST Act and now under A.P. Value Added Tax Act, 2005 and the petitioner is an assessee on the rolls of the 7th respondent. The petitioner is carrying on the business in

execution of 'Work Contracts'.

It is submitted by the learned counsel for the petitioner that the petitioner has already paid 1.4% on total value to the 7th respondent and hence, the petitioner is entitled for refund of 4% on total value from the respondent Nos. 2 to 6. But, however, the learned Government Pleader and also the learned counsel for the petitioner further submits that the balance of 1.4% has already paid and he is entitled for refund from the respondent Nos. 2 to 6.

The learned Government Pleader submits that the petitioner has paid 4% in total.

Heard the learned counsel for the petitioner, the learned Government Pleader for Finance and Planning, Special Standing Counsel for Commercial Taxes and the learned Government Pleader for Roads and Buildings.

In view of the facts and circumstances of the case and also recording the submissions made by the learned counsel for the petitioner and the learned Government Pleader, the Writ Petition is allowed. However, there shall be a direction to the respondent Nos. 2 to 6 not to remit any further amount to the 7th respondent in respect of the deductions already made pursuant to the Memo dated 14.3.2007 of the 1st respondent, while processing the final bill.

The Writ Petition is allowed accordingly. No costs.

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T. MEENA KUMARI, J

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C.V. NAGARJUNA REDDY,
J

19.12.2007

N.B
C.C. by 26.12.2007
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CHV